

REMARKS

Reconsideration and allowance of this application in light of the foregoing amendments and accompanying remarks is respectfully requested.

CORRECTION OF THE SPECIFICATION

An obvious terminology error on page 7 has been corrected by changing “collar” to --ring--.

In view of the specification as originally filed, and in view of the drawing FIGS. 1-5 as originally filed, it is believed that the correction does not add new matter.

NEW CLAIM 11 IS ALLOWABLE

New claim 11 is presented as an independent claim directed to a device for fastening a pump, such as a finger-actuated pump, to a vessel or container.

New claim 11 sets forth, inter alia, a retainer ring having a skirt defining an internal wall and an external wall, and a lining collar surrounding the skirt. New claim 11 further requires the external wall of the retainer ring skirt to have longitudinal external ribs which fit against the internal wall of the collar. New claim 11 further requires the internal wall of the skirt to be radially distorted inwards at the external ribs (e.g., as illustrated for the embodiment shown in FIG. 3 wherein the skirt 10 is shown with an internal wall 12 which is deformed inwardly at vertical longitudinal portions or cams 15 on the inside of each longitudinal external rib 14). As discussed in the patent application specification, the distorted portions 15 of the skirt internal wall project radially inwards as a result of the external ribs 14 being displaced radially inwards within the surrounding collar 2 (which has an internal diameter  $D_i$  that is smaller than the

external circumference around the skirt ribs 14 as shown in FIG. 2). This unique arrangement results in a reduction of the internal diameter of the skirt 10 so as to provide proper fastening of the retainer ring 1 on the vessel neck 3.

New claim 11 is not anticipated by, or obvious over, the cited patent to Smith (U.S. Patent No. 2,808,954). Smith teaches a tamper-indicating closure, not a “device for fastening a pump” to a vessel.

Further, Smith provides a plastic cap or hood 11 which is removable, and which is initially covered by a tamper-indicating shell 12 which is also removable. The shell 12 is removed by peeling away the tear-strip 23 to allow the rest of the shell 12 to be separated from the underlying hood 11, which hood 11 can then be pulled off of the top of the container.

Smith therefore teaches a wholly removable structure which is contrary in function and form to the novel device set forth in new claim 11 in the instant application. The device that is set forth in the instant application new claim 11 non-removably holds a pump to a vessel. It is not possible for the consumer (i.e., user of the fastening device/pump/vessel combination) to ordinarily remove the outer lining collar, the inner retaining ring, or the pump.

One of ordinary skill in the art of fastening devices for fastening a pump to a vessel would not consider looking to designs for “removable,” tamper-indicating closures. Even if consideration were given to such tamper-indicating, removable closures, the tamper-indicating removable closure taught by Smith wholly fails to disclose a number of the unique features set forth in new claim 11.

Smith teaches away from providing a number of the claimed features, such as the

distortion of the skirt internal wall at the external ribs. Smith specifically teaches that, as shown in FIG. 3 of Smith, the internal wall of the inner hood 11 is perfectly cylindrical and without distortion.

Further, Smith teaches, as shown in FIG. 3 of Smith, that the internal hood 11 has a recessed surface creating an internal space (adjacent the number 14 lead line in FIG. 3) so that the recessed surface is located inwardly and away, from the inside surface of the skirt 18 of the shell 12. This is completely contrary to the instant application invention wherein the retainer ring 1 has a skirt 10 that is “deformed” inwards at portions 15 and wherein the exterior surfaces of the portions 15 and the connecting segments 13 engage the inside surface of the collar 2 as shown in FIG. 3 of the instant application.

New independent claim 11 is also patentable over the other patents cited in the Official Action--the U.S. Patent No. 6,409,049 to de Pous et al., the U.S. Patent No. 6,595,395 to Jourdin et al. De Pous et al. does not teach or suggest the use of ribs on an internal retaining ring, and in any event, de Pous et al. does not teach or suggest the arrangement of a retainer ring skirt wherein the internal wall of the skirt is radially distorted inwards at locations corresponding to external ribs. Jourdin et al. also does not teach or suggest the novel arrangement set forth in new independent claim 11 because Jourdin et al. does not disclose, inter alia, a retainer ring having a skirt with external ribs wherein the internal wall of the skirt is radially distorted inwards at the external ribs.

In view of the above discussion, it is believed that new independent claim 11 sets forth allowable subject matter, and allowance of new independent claim 11 is respectfully requested.

THE REJECTION OF THE CLAIMS 1-3, 7 AND 10 UNDER 35 U.S.C. §102  
AS UNPATENTABLE OVER THE SMITH U.S. PATENT NO. 2,808,954 IS OVERCOME

In Item 4 of the Official Action, the Examiner has rejected claims 1-3, 7 and 10 as being anticipated by the U.S. Patent No. 2,808,954 to Smith.

Of claims 1-3, 7, and 10, only claims 1 and 10 are independent claims. Each of the independent claims 1 and 10 sets forth, among other things, a “device for fastening a distribution component on a vessel neck.”

The Smith patent cited by the Examiner does not anticipate such a structure. The Smith patent teaches a tamper-indicating closure, but does not teach a “device for fastening a distribution component on a vessel neck” as set forth in the instant application claims 1 and 10. Thus, the Smith patent does not teach all the elements necessary to be anticipatory, and Smith falls as a Section 102 reference.

Smith provides a plastic cap or hood 11 which is removable, and which is initially covered by a tamper-indicating shell 12 which is also removable. The shell 12 is removed by peeling away the tear-strip 23 to allow the rest of the shell 12 to be separated from the underlying hood 11, which hood 11 can then be pulled off of the top of the container.

Smith therefore teaches a wholly removable structure which is contrary in both function and form to the novel device set forth in new claim 11 in the instant application. The device that is set forth in the instant application independent claims 1 and 10 non-removably holds a pump to a vessel. It is not possible for the consumer (i.e., user of the fastening device/pump/vessel combination) to ordinarily remove the outer lining collar, the inner retaining ring, or the pump.

One of ordinary skill in the art of fastening devices for fastening a pump to a vessel

would not consider looking to designs for “removable,” tamper-indicating closures.

Thus, the rejection of independent claims 1 and 10, along with dependent claims 2, 3, and 7, as being anticipated by Smith should be withdrawn. Such action is respectfully requested.

THE REJECTION OF CLAIMS 1-3, 7, AND 10 UNDER  
35 U.S.C. §103(a) AS UNPATENTABLE OVER  
DE POUS ET AL. U.S. PATENT NO. 6,409,049 IS OVERCOME

In Item 5 of the Official Action, the Examiner has rejected claims 1-3, 7, and 10 as being obvious over the U.S. Patent No. 6,409,049 to de Pous et al.

Of the rejected claims 1-3, 7, and 10, only claims 1 and 10 are independent claims. Each of independent claims 1 and 10 sets forth, among other things, a retainer ring having a skirt with an internal wall which includes longitudinal external ribs extending axially vertically over the height of the skirt.

De Pous et al. does not teach or suggest such a structure.

FIG. 5 of the de Pous et al. '049 patent discloses ribs 22 on the inside of a cup or hoop 20. De Pous specifically teaches that the ribs 22 on the inside of the hoop 20 must be in an upper part of the hoop, and must not extend down to the lower part of the hoop or skirt. The Examiner's attention is directed to de Pous, at column 9, line 63, to column 10, line 9. The assembly of the hoop 20 is described as including the step of initially mounting the hoop 20 partway on the ring 10 as shown in FIG. 4(a). The hoop 20 is pushed down on the ring 10 until the bottom ends 22(a) of the ribs 22 abut the top end of the annular crown 14 of the ring 10. This forms a “subassembly” constituted by the dispenser assembly 3, ring 10, and hoop 20. This subassembly, as shown in FIG. 4(a), is a pre-engaged, “non-final” configuration, and it is in this “non-final” configuration that the subassembly is delivered to the bottler. Only then does the bottler initially

install the subassembly on the bottle, and only thereafter does the bottler push the hoop 20 all the way down on the ring 1. For the system disclosed in de Pous et al. to be installed in this manner, the ribs 22 cannot extend all the way down to the bottom of the hoop 20.

In contrast with the above-described de Pous et al. assembly, the present invention collar 2 can be initially pushed all the way down on to the ring 1, and this can be done before the assembly is mounted on the bottle.

Further, in the instant invention, as set forth in independent claims 1 and 10, ribs are provided on the retainer ring 1, not the surrounding hoop or collar as taught by de Pous et al.

In item 5 of the Official Action, the Examiner argues that it would have been obvious to one of ordinary skill in the art at the time the invention was made to move the ribs from the inside of the de Pous et al. hoop 20 to the outside of the de Pous et al. ring 10. However, the issue here is not a mere reversal of parts--but also a change of location and configuration. In the instant application FIGS. 3 and 4(a), it can be seen that the inventive exterior ribs 14 in the wall of the inner retainer ring 1 extend to the lower end of the ring skirt 10 past (i.e., below) the vessel neck flange 30 (FIG. 4a). This is not the case with the de Pous et al. '049 patent. The de Pous '049 patent, in FIG. 4c, shows a different and contrary arrangement wherein the ribs 22 on the inside of the surrounding external hoop 20 remain above the vessel flange 2.

Thus, one of ordinary skill in the art would not be taught by de Pous et al. '049 to employ a collar or other member having ribs in the lower portion or skirt (whether on the inside, or on the outside, of such a skirt). Indeed, de Pous et al. '049 teaches away from such a concept, and teaches away from the structure set forth in the independent claims 1 and 10 of the instant application wherein the ribs are extending axially, vertically over the height of the lower skirt.

Further, de Pous et al. '049 teaches that the preferred embodiment of the hoop 20 is preferably made of metal so that the ribs can be relatively easily forced into the upper portion plastic fixing ring 10 during final installation of the assembly on the bottle. In contrast, in the invention described in the instant application, the ribs on the exterior of the retainer ring skirt are intended to come into fitting contact against the smooth, cylindrical, internal wall of the surrounding collar (see FIG. 1) so as to cause a deformation or buckling of the wall of the internal ring. Again, de Pous et al. '049 does not teach or suggest this concept or structure.

In view of the above comments, it is believed that the features set forth in independent claims 1 and 10 are not taught or suggested by the prior art de Pous et al. '049 patent cited by the Examiner. Accordingly, the Examiner's rejection of independent claims 1 and 10, along with the dependent claims 2, 3, and 7, under 37 U.S.C. §103(a) as being unpatentable over de Pous et al. '049 is not well taken, and withdrawal of that rejection is respectfully requested.

THE REJECTION OF THE CLAIMS 1-7 AND 10 UNDER 35 U.S.C. §103(a) AS  
UNPATENTABLE OVER JOURDIN ET AL. U.S. PATENT NO. 6,595,395  
IN VIEW OF SMITH U.S. PATENT NO. 2,808,954

In item 6 of the Official Action, the Examiner has rejected claims 1-7 and 10 under 35 U.S.C. §103(a) as being unpatentable over the U.S. Patent No. 6,595,395 to Jourdin et al. in view of the U.S. Patent No. 2,808,954 to Smith.

Of claims 1-7 and 10 rejected in item 6 of the Official Action, only claims 1 and 10 are independent claims.

The deficiencies of the Smith patent teachings as prior art have been discussed above in detail with respect to the rejection of claims 1-3, 7, and 10 under 35 U.S.C. §102(b).

The Jourdin et al. '395 patent also wholly fails as an effective reference with respect to

the instant application independent claims 1 and 10, and the dependent claims 2-7. In particular, the Jourdin et al. '395 patent does not teach external ribs extending the length of the skirt of a retainer ring. The independent claims 1 and 10 of the instant application each requires, among other things, that the retainer ring have a skirt with an external wall formed with longitudinal external ribs extending axially vertically over the height of the skirt. In contrast, Jourdin et al. '395 teaches away from such a structure. Jourdin et al. '395 discloses, in FIG. 5, the use of ribs 23 on an inside surface of a skirt of a ring 20. This is completely inconsistent with the structure set forth in the instant application independent claims 1 and 10.

In item 6 of the Official Action, the Examiner has combined the teachings of the Smith '954 patent with the Jourdin et al. '395 patent. The Examiner has stated that the Smith '954 patent teaches the use of ribs 23 for engaging the interior surface of a collar. However there is no motivation, teaching, or suggestion to combine the teachings of the Smith '954 patent with the Jourdin et al. '395 patent teachings.

First of all, the Smith '954 patent does not relate to a "device for fastening a distribution component on a vessel neck." The independent claims 1 and 10 in the instant application clearly set forth a device for "fastening a distribution component" on a vessel neck. As discussed above, the distribution component, such as a finger-actuated pump or valve, is intended to be securely fastened to the vessel neck, and is not adapted to be, or intended to be, removed by the user.

Smith does not pertain to the technical field of the present invention. The removable, tamper-indicating closure structure of the Smith '954 patent does not address, and is remote from, the problems which the present invention is intended to overcome. Further, Smith is directed to overcoming problems that are not at all analogous to the problems faced by the



inventors of the present invention. As noted by the Court of Appeals for the Federal Circuit, in In re Oetiker, 24 U.S.P.Q. 2d 1443 (CAFC 1992), "The combination of elements from non-analogous sources, in a manner that reconstructs the applicant's invention, only with the benefit of hindsight, is insufficient to present a prima facie case of obviousness."

Further, as noted by the Court in Sensonics Inc. v. Aerosonic Corp., 38 U.S. P.Q. 2d 1551 (Fed. Cir. 1996), ([T]o draw on hindsight knowledge of the patented invention, when the prior art does not contain or suggest that knowledge, is to use the invention as a template for its own reconstruction--an illogical, inappropriate process by which to determine patentability."

In view of the above discussion, it is believed that the Smith '954 patent and the Jourdin et al. '395 patent are not properly combinable to teach or suggest the invention set forth in independent claims 1 and 10 or the dependent claims 2-7. Accordingly, withdrawal of the rejection of claims 1-7 and 10, under 35 U.S.C. §103(a) as being unpatentable over Jourdin et al. in view of Smith, is respectfully requested.

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It is believed that all of the claims in the application, as amended, are now in condition for allowance, and such action is earnestly solicited.

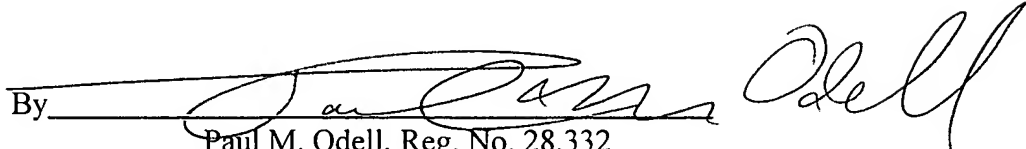
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Further, it is believed that this entire application is now in condition for allowance, and such action is respectfully requested.

Respectfully submitted,

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER

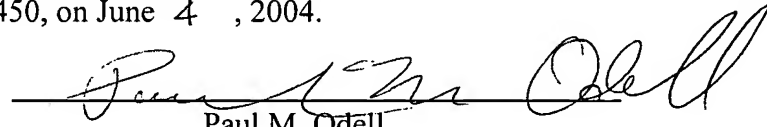
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